

5. An owner of a service dog or a person with a disability who uses a service dog may file a cause of action to recover civil damages against any person who:

(1) Violates the provisions of subsection 1 or 2 of this section; or

(2) Steals a service dog resulting in the loss of the services of the service dog.

6. Any civil damages awarded under subsection 5 of this section shall be based on the following:

(1) The replacement value of an equally trained service dog, without any differentiation for the age or experience of the service dog;

(2) The cost and expenses incurred by the owner of a service dog or the person with a disability who used the service dog, including:

(a) The cost of temporary replacement services, whether provided by another service dog or by a person;

(b) The reasonable costs incurred in efforts to recover a stolen service dog; and

(c) Court costs and attorney's fees incurred in bringing a civil action under subsection 5 of this section.

7. An owner of a service dog or a person with a disability who uses a service dog may file a cause of action to recover civil damages against a person who:

(1) Violates the provisions of subsections 1 to 4 of this section resulting in injury from which the service dog recovers to an extent that the dog is able to function as a service dog for the person with a disability; or

(2) Steals a service dog and the service dog is recovered resulting in the service dog being able to function as a service dog for the person with a disability.

8. Any civil damages awarded under subsection 7 of this section shall be based on the following:

(1) Veterinary medical expenses;

(2) Retraining expenses;

(3) The cost of temporary replacement services, whether provided by another service dog or by a person;

(4) Reasonable costs incurred in the recovery of the service dog; and

(5) Court costs and attorney's fees incurred in bringing the civil action under subsection 7 of this section.

9. The provisions of this section shall not apply if a person with a disability, an owner, or a person having custody or supervision of a service dog commits criminal or civil trespass.

10. Nothing in this section shall be construed to preclude any other remedies available at law.

(L. 2005 H.B. 116)

Effective 7-12-05

Crime of impersonating a person with a disability for the purpose of receiving certain accommodations, penalty, civil liability.

209.204. Any person who knowingly impersonates a person with a disability for the purpose of receiving the accommodations regarding service dogs under the Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq., is guilty of a class C misdemeanor and shall also be civilly liable for the amount of any actual damages resulting from such impersonation. Any second or subsequent violation of this section is a class B misdemeanor. For purposes of this section, "impersonates a person with a disability" means a representation by word or action as a person with a disability or a representation of a dog by word or action as a service dog.

(L. 2005 H.B. 116)

Effective 7-12-05

Amount of pension--need, how determined.

209.240. 1. The division of family services shall, for the purpose of obtaining federal financial participation in aid to the blind payments, prepare a budget taking into consideration the necessary expenses in accordance with standards developed by the division of family services and the income and resources of the individual claiming aid to the blind. In preparing such budget the division of family services shall disregard the first eighty-five dollars per month of earned income plus one-half of earned income in excess of eighty-five dollars per month and for a period not in excess of twelve months, such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by the division of family services, as may be necessary for the fulfillment of such plan. Every person passing the vision test and having the other qualifications provided in this law shall be entitled to receive aid to the blind in the amount of one hundred ten dollars monthly. Any person disqualified to receive aid to the blind may apply for pension to the blind as provided in sections 209.010 to 209.160.

2. If the funds at the disposal or which may be obtained by the division of family services for the payment of benefits under this section shall at any time become insufficient to pay the full amount of benefits to each person entitled thereto, the amount of benefits of each one of such persons shall be reduced pro rata in proportion to such deficiency in the total amount available or to become available for such purpose.

3. Medical assistance for aid to the blind recipients shall be payable as provided in sections 208.151 to 208.158 without regard to any durational residence requirement for eligibility.

(L. 1951 p. 764 § 5, A.L. 1953 p. 635, A.L. 1955 p. 694, A.L. 1959 H.B. 74, A.L. 1961 p. 536, A.L. 1963 p. 387, A.L. 1965 p. 357, A.L. 1967 p. 330, A.L. 1969 p. 347, A.L. 1971 H.B. 287, Repealed 1973 S.B. 325, A.L. 1973 H.B. 157)

Definitions.

209.251. As used in sections 209.251 to 209.259, the following terms mean:

(1) "Adaptive telecommunications equipment", equipment that translates, enhances or otherwise transforms the receiving or sending of telecommunications into a form accessible to individuals with disabilities. The term adaptive telecommunications equipment includes adaptive telephone equipment and other types of adaptive devices such as computer input and output adaptations necessary for telecommunications access;

(2) "Basic telecommunications access line", a telecommunications line which provides service from the telephone company central office to the customer's premises which enables the customer to originate and terminate long distance and local telecommunications;

(3) "Commission", the public service commission;

(4) "Consumer support and outreach", services that include, but are not limited to, assisting individuals with

disabilities or their families or caregivers in the selection of the most appropriate adaptive telecommunications equipment to meet their needs, providing basic training and technical assistance in the installation and use of adaptive telecommunications equipment, and development and dissemination of information to increase awareness and use of adaptive telecommunications equipment;

(5) "Department", the department of labor and industrial relations;

(6) "Eligible subscriber", any individual who has been certified as deaf, hearing-impaired, speech-impaired or as having another disability that causes the inability to use telecommunications equipment and services by a licensed physician, audiologist, speech pathologist, hearing instrument specialist or a qualified agency;

(7) "Missouri assistive technology advisory council" or "council", the body which directs the Missouri assistive technology program pursuant to sections 191.850 to 191.865;

(8) "Program administrator", the entity or entities designated to design the statewide telecommunications equipment distribution program, develop and implement the program policies and procedures, assure delivery of consumer support and outreach and account for and pay all program expenses;

(9) "Surcharge", an additional charge which is to be paid by local exchange telephone company subscribers pursuant to the rate recovery mechanism established pursuant to sections 209.255, 209.257 and 209.259 in order to implement the programs described in sections 209.251 to 209.259;

(10) "Telecommunications", the transmission of any form of information including, but not limited to, voice, graphics, text, dynamic content, and data structures of all types whether they are in electronic, visual, auditory, optical or any other form;

(11) "Telecommunications device for the deaf" or "TDD", a telecommunications device capable of allowing deaf, hearing-impaired or speech-impaired individuals to transmit messages over basic telephone access lines by sending and receiving typed messages.

(L. 1990 H.B. 1132 § 1 merged with H.B. 1315 § 1, A.L. 1996 S.B. 525, A.L. 2000 S.B. 721, A.L. 2001 H.B. 567)

Statewide dual-party relay system, establishment by PSC--advisory assistive technology council to administer--rulemaking authority.

209.253. 1. The commission shall provide a statewide dual-party system, using third-party intervention to connect deaf, hearing-impaired and speech-impaired persons and offices of organizations representing the deaf, hearing-impaired and speech-impaired with telecommunication devices for the deaf (TDDs) and the telephone system, making available reasonable access to telephone service to eligible subscribers.

2. The Missouri assistive technology advisory council shall provide a statewide telecommunications equipment distribution program making available reasonable access to basic telecommunications service for eligible subscribers who are unable to use traditional telecommunications equipment due to disability.

3. The program administrator of the statewide telecommunications equipment distribution program shall:

(1) Provide consumer support and outreach;

(2) Develop administrative procedures to assure an appropriate match between an individual with a disability and adaptive telecommunications equipment;

(3) Provide a full range of adaptive telecommunications equipment to meet the needs of individuals with all types of disabilities;

- (4) Procure and distribute adaptive telecommunications equipment in the most cost-effective manner possible; and
- (5) Expend no less than ten percent of total expenditures for consumer support and outreach and no more than twenty percent of total expenditures for program administration in any fiscal year.
4. Missouri public or nonpublic organizations shall be used to deliver consumer support and outreach and administrative services in all contracts and subcontracts for a statewide telecommunications equipment distribution program.
5. The Missouri assistive technology advisory council shall be the program administrator for the statewide telecommunications equipment distribution program.
6. The Missouri assistive technology advisory council may promulgate rules necessary to implement and administer the telecommunications equipment distribution program, but no rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536.
7. The Missouri assistive technology advisory council may enter into contracts as necessary to carry out the telecommunications equipment distribution program, including but not limited to contracts with disability organizations.
8. Nothing in sections 209.251 to 209.259 shall be construed to require the state to purchase, install or maintain equipment on an eligible subscriber's premises which will enable the eligible subscriber to participate in the dual-party relay system.
9. Nothing in sections 209.251 to 209.259 shall be construed to require the state to provide adaptive telecommunications equipment at no cost to all eligible subscribers. The Missouri assistive technology advisory council shall adopt procedures to limit eligibility based on financial means, existing access to adaptive telecommunications equipment, prior usage of the equipment distribution program, and other factors deemed appropriate by the program administrator. The scope of the program shall be limited to reasonable access to basic telecommunications as defined by the program administrator, subject to appropriations.

(L. 1990 H.B. 1132 § 2 merged with H.B. 1315 § 2, A.L. 1996 S.B. 525, A.L. 2000 S.B. 721)

Rate established to recover costs of programs--surcharge, limitations, collection--exemption from taxes.

- 209.255. 1. The commission shall establish a rate recovery mechanism to recover the costs of implementing and maintaining the programs provided for in section 209.253, which shall be applied to each basic telephone access line. Any surcharge established by such rate recovery mechanism shall not be imposed upon more than one hundred basic telephone access lines per subscriber per location. Any surcharge established by such rate recovery mechanism shall not be imposed on any telephone line used to provide pay telephone service. The surcharge may appear on the bill of each local exchange telephone subscriber identified separately as a deaf relay service and equipment distribution program fund surcharge. The commission shall not vary the amount of the surcharge between telephone companies nor between the class or grade of customers of any telephone company. The surcharge provided for in this section shall be exempt from the taxes provided for in chapter 144, and the surcharge shall not be construed as gross receipts or revenue of the company collecting such for the purpose of local taxation.
2. Each basic telephone access line subscriber is liable for the payment of any surcharge provided for in subsection 1 of this section. The local exchange telephone company shall not be liable for any uncollected surcharge, nor shall it have any obligation to initiate any action to enforce the collection of the surcharge.

(L. 1990 H.B. 1132 § 3 subsecs. 1, 2 merged with H.B. 1315 § 3 subsecs. 1, 2, A.L. 1993 S.B. 160, A.L. 1996 S.B. 525, A.L. 2000 S.B. 721)

Telephone company to deduct percentage to cover cost--percentage determined by PSC--money collected, deposit--use of deaf relay service fund.

209.257. The local exchange telephone company shall deduct and retain a percentage of the total surcharge amount collected each month to recover the billing, collecting, remitting and administrative costs attributed to the deaf relay service and equipment distribution program fund surcharge. The commission shall determine the appropriate percentage to be deducted and retained and shall include this percentage as part of its order establishing the deaf relay service and equipment distribution program fund surcharge. All remaining deaf relay service and equipment distribution program fund surcharge money collected by local exchange telephone companies shall be remitted to the commission, who shall use such money exclusively to fund the programs provided for in section 209.253.

(L. 1990 H.B. 1132 § 3 subsec. 3 merged with H.B. 1315 § 3 subsec. 3, A.L. 1996 S.B. 525)

Deaf relay service fund established, purpose--deposit--unexpended balance not to be transferred to general revenue--commission and advisory assistive technology council to request appropriations from fund for service delivery.

209.258. 1. All remaining deaf relay service and equipment distribution program fund surcharge money collected by local exchange telephone companies pursuant to section 209.257 shall be paid to the director of revenue in a manner prescribed by the public service commission. The director of revenue shall remit such payments to the state treasurer.

2. The state treasurer shall credit such payments to a special fund, which is hereby created, to be known as the "Deaf Relay Service and Equipment Distribution Program Fund" which fund shall be devoted solely to the payment of expenditures actually incurred in operation of the statewide dual-party relay service and equipment distribution program authorized by section 209.253, including expenses associated with the administration of the dual-party relay service and equipment distribution program or incurred by members of any advisory committee appointed by the commission or Missouri assistive technology advisory council to help in the administration of the statewide telecommunications equipment distribution program authorized by section 209.253.

3. Any unexpended balance in the fund at the end of the fiscal year shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund, but shall be applicable by appropriation of the general assembly to the payment of expenditures for the dual-party relay service and equipment distribution program in the succeeding fiscal year.

4. The commission shall annually request, through a separate budget line item, appropriations from the deaf relay service and equipment distribution program fund to deliver the dual-party relay service. The Missouri assistive technology advisory council shall annually request, through a separate budget line item of its departmental budget, appropriations from the deaf relay service and equipment distribution program fund to deliver the telecommunications equipment distribution program.

5. The current surcharge rate shall not increase for a period of two years after August 28, 2000, subject to change in federal requirements for deaf relay services.

(L. 1991 S.B. 95, A.L. 1994 S.B. 552, A.L. 1996 S.B. 525, A.L. 2000 S.B. 721)

Review of surcharge and deduction percentage--recommendation procedures--surcharge adjusted when--excess funds, effective.

209.259. 1. From the date of implementing the deaf relay service and equipment distribution fund surcharge, the commission shall review such surcharge no less frequently than every two years but no more than annually and shall order changes in the amount of the surcharge as necessary to assure available funds for the provision of the programs established in section 209.253.

2. The Missouri assistive technology advisory council shall annually provide the department with information on actual expenditures for the equipment distribution program along with projections for future need to assist in surcharge review. On August 28, 2000, the department shall make its initial recommendation to the commission regarding the amount of the surcharge established in section 209.255 necessary for funding of the equipment distribution program. Thereafter, the department may annually make a recommendation to the commission regarding the amount of the surcharge for that program. The commission shall, based on the department's recommendation, issue an order revising the surcharge established in section 209.255 as necessary to fund the equipment distribution program. The department's recommendation shall be based on the estimated number of access lines and anticipated budget for the coming fiscal year. The amount of the surcharge recommended by the department shall be sufficient to recover the annual costs of implementing and maintaining the equipment distribution program.

3. Concurrent with the review of the surcharge, the commission shall review the percentage deducted and retained by the local exchange telephone company provided in section 209.257 and if necessary shall order adjustments to the percentage to assure a just and reasonable compensation to the local exchange telephone company. Where the review of the surcharge determines that excess funds are available, the commission may order the suspension of the deaf relay service and equipment distribution program fund surcharge for a period which the commission deems appropriate.

(L. 1990 H.B. 1132 § 3 subsec 4 merged with H.B. 1315 § 3 subsec. 4, A.L. 1996 S.B. 525, A.L. 2000 S.B. 721)

Telecommunications companies responsibility for quality of services, individuals with disabilities.

209.260. Telecommunications companies shall ensure, if readily achievable as defined by federal law 42 U.S.C.A. section 12181(9), that high quality existing and new telecommunications services are available, accessible and usable by individuals with disabilities, unless making the services available, accessible or usable would result in an undue burden, including unreasonable costs or technical infeasibility, or would have an adverse competitive effect.

(L. 1996 S.B. 525 § 1)

Definitions.

209.261. As used in sections 209.261 to 209.265, the following terms mean:

(1) "Auxiliary aids and services", the device or service that the deaf person feels would best serve him which includes, but is not limited to, interpreters, notetakers, transcription services, written materials, assistive listening devices, assistive listening systems, closed caption decoders, open and closed captioning, videotext display or other effective method of making aurally delivered materials available to individuals with hearing loss;

(2) "Deaf person", any person who, because of a hearing loss, is not able to discriminate speech when spoken in a normal conversational tone regardless of the use of amplification devices;

(3) "Person with a speech impairment", any person who, because of a speech disability, is not able to speak clearly or understandably in a normal conversational tone regardless of the use of assistive devices;

(4) "Relay agent", a person employed to relay conversations for a person who is deaf or speech impaired over a dual-party telephone system.

(L. 1993 H.B. 600 § 1)

Person relaying conversation not to disclose contents, exception--order to disclose--privilege.

209.263. 1. A person who interprets, transliterates or relays a conversation between a person who can hear and a deaf person is deemed a conduit for the conversation and may not disclose, or be compelled to disclose by subpoena, the contents of the conversation which he facilitated without the prior consent of the person who received his professional services, except as provided in subsection 2 of this section.

2. A court may order disclosure of the contents of a conversation to provide evidence in proceedings related to criminal charges. However, all communications which are privileged by law shall be protected as privileged communications in the same manner as communications when an auxiliary aids and services provider or relay agent is used.

(L. 1993 H.B. 600 § 2)

No disclosure of conversation without permission--penalty.

209.265. 1. An auxiliary aids and services provider or relay agent who is employed to interpret, transliterate or relay a conversation between a person who can hear and a person who is deaf or speech impaired shall not disclose the contents of the conversation, unless the person for whom he interpreted, transliterated or relayed has given written permission for such disclosure.

2. Violation of this section is a class A misdemeanor.

(L. 1993 H.B. 600 § 3, A L. 1995 H.B. 135)

Definitions.

209.285. As used in sections 209.285 to 209.339, unless the context clearly requires otherwise, the following terms mean:

(1) "American sign language", a visual-gestural system of communication that has its own syntax, rhetoric and grammar. American sign language is recognized, accepted and used by many deaf Americans. This native language represents concepts rather than words;

(2) "Board", the Missouri board for certification of interpreters, established within the commission in section 209.287;

(3) "Certification", a document issued by the Missouri commission for the deaf and hard of hearing declaring that the holder is qualified to practice interpreting at a disclosed level;

(4) "Commission", the Missouri commission for the deaf and hard of hearing;

- (5) "Committee", the Missouri state committee of interpreters, established in section 209.319;
- (6) "Conversion levels", the process of granting levels of certification by the commission to individuals holding certification from another state or within another certification system in this state or another state;
- (7) "Coordinator", a staff person, hired by the executive director of the Missouri commission for the deaf and hard of hearing, who shall serve as coordinator for the Missouri interpreter certification system;
- (8) "Deaf person", any person who is not able to discriminate speech when spoken in a normal conversational tone regardless of the use of amplification devices;
- (9) "Department", the department of insurance, financial institutions and professional registration;
- (10) "Director", the director of the division of professional registration;
- (11) "Division", the division of professional registration;
- (12) "Executive director", the executive director of the Missouri commission for the deaf and hard of hearing;
- (13) "Interpreter", any person who offers to render interpreting services implying that he or she is trained, and experienced in interpreting, and holds a current, valid certification and license to practice interpreting in this state; provided that a telecommunications operator providing deaf relay service or a person providing operator services for the deaf shall not be considered to be an interpreter;
- (14) "Interpreter trainer", a person, certified and licensed by the state of Missouri as an interpreter, who trains new interpreters in the translating of spoken English or written concepts to any necessary specialized vocabulary used by a deaf consumer. Necessary specialized vocabularies include, but are not limited to, American sign language, Pidgin Signed English, oral, tactile sign and language deficient skills;
- (15) "Interpreting", the translating of English spoken or written concepts to any necessary specialized vocabulary used by a deaf person or the translating of a deaf person's specialized vocabulary to English spoken or written concepts; provided that a telecommunications operator providing deaf relay service or a person providing operator services for the deaf shall not be considered to be interpreting. Necessary specialized vocabularies include, but are not limited to, American sign language, Pidgin Signed English, oral, tactile sign and language deficient skills;
- (16) "Language deficient", mode of communication used by deaf individuals who lack crucial language components, including, but not limited to, vocabulary, language concepts, expressive skills, language skills and receptive skills;
- (17) "Missouri commission for the deaf", Missouri commission for the deaf and hard of hearing established in section 161.400;
- (18) "Oral", mode of communication having characteristics of speech, speech reading and residual hearing as a primary means of communication using situational and culturally appropriate gestures, without the use of sign language;
- (19) "Pidgin Signed English", a mode of communication having characteristics of American sign language;
- (20) "Practice of interpreting", rendering or offering to render or supervise those who render to individuals, couples, groups, organizations, institutions, corporations, schools, government agencies or the general public any interpreting service involving the translation of any mode of communication used by a deaf person to spoken English or of spoken English to a mode of communication used by a deaf person;
- (21) "Tactile sign", mode of communication, used by deaf and blind individuals, using any one or a combination

of the following: tactile sign, constricted space sign or notetaking.

(L. 1994 S.B. 568 § 1, A.L. 2002 H.B. 1783, A.L. 2008 S.B. 788)

Board for certification of interpreters established--appointment, qualification, terms--expenses--meetings--chairman elected how--quorum--removal from office, procedure.

209.287. 1. There is hereby established within the Missouri commission for the deaf and hard of hearing a board to be known as the "Board for Certification of Interpreters", which shall be composed of five members. The executive director of the Missouri commission for the deaf and hard of hearing or the director's designee shall be a nonvoting member of the board.

2. The members shall be appointed by the governor with the advice and consent of the senate from a list of recommendations from the commission. The members shall be appointed for terms of three years, except those first appointed whose terms shall be staggered and one member appointed to serve for one year, two members to serve for two years and two members to serve for three years. No member shall be eligible to serve more than two consecutive terms, except a person appointed to fill a vacancy for a partial term may serve two additional terms. Two of the members appointed shall be deaf, two shall be certified interpreters and one shall be deaf or a certified interpreter. The members shall be fluent in American sign language, Pidgin Signed English, oral, tactile sign, or any specialized vocabulary used by deaf persons. The member shall have a background and knowledge of interpreting and evaluation.

3. The members shall receive no compensation for their services on the board, but the commission shall reimburse the members for actual and necessary expenses incurred in the performance of their official duties. The board shall meet not less than two times per year. The board shall elect from its membership a chairperson and a secretary. A quorum of the board shall consist of three of its members.

4. Any member of the commission may petition the governor to remove a member from the board for the following reasons: misconduct, inefficiency, incompetence or neglect of his official duties. The governor may remove the member after giving the committee member written notice of the charges against him and an opportunity to be heard pursuant to administrative procedures in chapter 621.

(L. 1994 S.B. 568 § 2, A.L. 2002 H.B. 1783)

Coordinator to be hired, qualifications, salary and expenses.

209.289. The executive director shall hire a coordinator, who shall serve as coordinator of the Missouri interpreters certification system. The coordinator shall have a background in interpreter testing and interpreting. The salary and office space for the coordinator shall be appropriated to and provided by the commission. The salary of the coordinator shall be paid out of general revenue funds. All other expenses for the administration of sections 209.287 to 209.318 shall be paid from the interpreters fund established in section 209.318.

(L. 1994 S.B. 568 § 3)

Board's powers and duties--evaluation team to be appointed, qualifications, expenses--removal from team, procedure.

209.292. 1. The board shall, with the approval of the commission:

- (1) Prescribe qualifications for each of the several levels of certification based on proficiency and shall evaluate and certify interpreters using such qualifications;
- (2) Issue the certificates, bearing the signature of the executive director, necessary to qualify for a license to interpret;
- (3) Develop a fee scale for interpreting services, pursuant to section 161.405;
- (4) Maintain the quality of interpreting services, pursuant to section 161.405, by:
 - (a) Generating ideas for conducting interpreter training workshops to update knowledge and skills; and
 - (b) Suggesting institutions of higher education to provide interpreter training programs;
- (5) Develop specific guidelines for the use of interpreters according to their level of certification and submit the guidelines to the division and copies to be distributed to state departments, agencies, commissions, courts, interpreters and to the public;
- (6) Develop ethical rules of conduct to be recommended for adoption by the division;
- (7) Develop fees for application, administration of an evaluation, conversion and certificate renewal, to cover the cost of the certification system and administration;
- (8) Compile a statewide registry of interpreters by skill level and include recommendations relating to the appropriate selection and utilization of interpreters for the deaf. The registry shall be made available to and recommended for adoption by state commissions, departments and agencies;
- (9) Develop a conversion system and policy for accepting other certification systems into the certification offered by the Missouri commission for the deaf and hard of hearing;
- (10) Develop acceptable professional development activities to maintain certification;
- (11) Investigate and implement the most appropriate testing model for interpreter certification;
- (12) When necessary, develop an evaluation team, appointed by the commission, to assist in evaluating interpreters;
- (13) Provide opportunity to hear grievances against the certification process or one of its members using the guidelines established in chapter 621.

2. An evaluation team appointed pursuant to subdivision (12) of subsection 1 of this section shall have similar backgrounds to the members of the board. The evaluation team shall serve at the pleasure of the commission. The commission shall reimburse evaluators for actual and necessary expenses incurred in the performance of their official duties and may fairly compensate them. A member of an evaluation team may be removed from the team by the executive director, after notice and an opportunity to be heard, for the following reasons: misconduct, inefficiency, incompetence or neglect of official duties.

(L. 1994 S.B. 568 § 4, A.L. 2002 H.B. 1783)

Rules and regulations, authority to promulgate, duties of commission.

209.295. The commission may promulgate rules and regulations pertaining to, but not limited to:

- (1) The form and content of certification applications and the procedures for filing an application for an initial certification and renewal certification in this state;
- (2) Fees required for the operation of the certification system, including, but not limited to, application fees, evaluation fees, renewal fees, conversion fees or any other fees relating to the certification;
- (3) The certifications recognized as qualifying credentials for initial or conversion certification;
- (4) Establishment of policy and procedure for conversion with other states' certification systems;
- (5) Guidelines for the use of interpreters according to their level of certification;
- (6) Maintenance and upkeep of skills, also known as continuing education or professional development training;
- (7) Minimum educational, training, experience and any necessary and appropriate certifications for interpreter trainers, as well as any necessary continuing education and training requirements for interpreter trainers;
- (8) Any other necessary and proper rules, decision or policy in regard to evaluation, certification and maintaining a certification according to the procedures set forth in chapter 536.

(L. 1994 S.B. 568 § 5)

Applications for certification, content, oath--fee not refundable--applicant to be given date for evaluation.

209.297. 1. Applications for certification as an interpreter:

- (1) Shall be submitted in writing to the commission on forms prescribed by the commission and furnished to the applicant;
- (2) Shall satisfactorily evidence the applicant's education, training, experiences, certification, at the time of application, the applicant is eighteen years of age or older and other information as the commission may require;
- (3) Shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant and that the applicant is subject to the penalties for making a false affidavit or declaration;
- (4) Shall be accompanied by the required application fee, submitted in a manner as required by the commission and shall not be refundable.

2. When the commission receives the application, the coordinator hired pursuant to section 209.289 shall notify the applicant of the earliest and most appropriate date for the applicant to be evaluated or converted.

(L. 1994 S B. 568 § 6 subsecs 1, 2)

Evaluations to be held where and when--coordinator to notify applicants of score.

209.299. The board shall schedule evaluations for persons seeking certification, at a central location, at least four times each year in 1995 and 1996, and at least twice a year thereafter, according to the number of applicants seeking certification. As soon as possible after completion of an evaluation, the coordinator shall notify the applicant of his score and level of certification.

(L. 1994 S.B. 568 § 6 subsec. 3)

Eligibility for evaluation.

209.302. An evaluation shall be available to the following, including, but not limited to:

- (1) New interpreters;
- (2) Uncertified, qualified interpreters;
- (3) Certified interpreters, advancing to another certification level;
- (4) An interpreter who is certified by a certification system other than the commission;
- (5) Uncertified interpreters who have not interpreted for one year or more; and
- (6) Interpreter trainers.

(L. 1994 S.B. 568 § 6 subsec. 4)

Evaluations, subjects to be covered--confidentiality of tests and records.

209.305. 1. The evaluation shall be an assessment of interpreter's language skills, expressive and receptive skills, professionalism, knowledge of interpreting and ethical practices. Modes of communication that shall be evaluated include, but are not limited to:

- (1) American sign language;
- (2) Tactile sign;
- (3) Language deficient;
- (4) Oral;
- (5) Pidgin Signed English; and
- (6) Any necessary specialized vocabulary, language or mode of communication in popular or regional use among deaf people.

2. The board or an evaluation team shall use testing materials developed by the commission or contracted with a national organization to assess the qualifications of interpreters. All testing materials and records shall be held confidential by the commission.

(L. 1994 S.B. 568 § 6 subsecs. 5, 6)

Conflict of interest for board or evaluation team, effect.

209.307. Any member of the board or an evaluation team who has a conflict of interest that may have a direct effect on an evaluation shall excuse himself from the evaluation. The remaining members, not consisting of less

than three members, shall assess that individual's performance.

(L. 1994 S.B. 568 § 6 subsec. 7)

Provisional certificates issued when--limitation--requirements--extension granted when.

209.309. The board may offer provisional certification to interpreters achieving a minimal level of certification established by the board. A provisional certification is limited to one year; during such year the interpreter must be reevaluated and achieve the next higher level of certification. If an evaluation slot is not available during the term of the provisional license, the interpreter may be granted an extension. A holder of a provisional certification may only be granted one extension.

(L. 1994 S.B. 568 § 6 subsec. 8)

Fees, how established.

209.311. The commission may charge fees for application, administration of an evaluation, renewal of a certificate, conversion and recordkeeping. The fees shall be in an amount sufficient to cover the costs of the evaluation and certification program.

(L. 1994 S.B. 568 § 6 subsec. 9)

Grievances on evaluation, procedure.

209.314. The commission shall provide an opportunity to hear grievances against the evaluation process or members of the assessment team pursuant to the administrative process in chapter 621.

(L. 1994 S.B. 568 § 6 subsec. 10)

Certificate may be suspended, denied or revoked--hearing procedure.

209.317. 1. The board may suspend, deny or revoke a certificate if an interpreter:

- (1) Impersonates another person holding interpreter certification;
- (2) Allows another person to use the interpreter's certificate;
- (3) Uses fraud, deception or misrepresentation in the certification process;
- (4) Harasses, abuses or threatens a member of the board, evaluation team or a support staff person who is administering the system;
- (5) Intentionally divulges confidential information relating to the certification process, including content, topic, vocabulary, skills or any other testing material;
- (6) Fails to achieve a minimum satisfactory certification level.

2. The board shall provide that any hearing concerning the denial, suspension or revocation of a certificate shall follow administrative procedures for hearings as provided in chapter 621.

(L. 1994 S.B. 568 § 7)

Fund for certification of interpreters established, purpose--lapse into general revenue when--first fiscal year, board's expenses, how paid.

209.318. 1. There is hereby established in the state treasury a fund to be known as the "Missouri Commission for the Deaf and Hard of Hearing Board of Certification of Interpreters Fund". All fees provided for in sections 209.287 to 209.318 shall be collected by the executive director of the commission and shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the Missouri commission for the deaf and hard of hearing board of certification of interpreters fund. Such funds, upon appropriation, shall be disbursed only for payment of expenses of maintaining the board and for the enforcement of the provisions of sections 209.287 to 209.318 and shall not be used to pay the salary of the coordinator hired pursuant to section 209.289. Warrants shall be drawn on the state treasury for payment out of the fund.

2. The provisions of section 33.080 to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the fund for the preceding fiscal year.

3. The expenses of maintaining the board enforcement of the provisions of sections 209.287 to 209.318 during the first fiscal year shall be paid by the commission from funds appropriated from general revenue for that purpose.

(L. 1994 S.B. 568 § 8, A.L. 2002 H.B. 1783)

State committee of interpreters to be established in division of professional registration, appointment, qualifications, terms, compensation--vacancies--quorum--meetings.

209.319. 1. There is hereby established in the division of professional registration the "Missouri State Committee of Interpreters", which shall consist of seven members, including two public members. At least one of the public members shall be deaf. The committee members shall be appointed by the governor with the advice and consent of the senate. Each member of the committee shall be a citizen of the United States and a resident of this state and, except as provided in subsections 2 and 3 of this section, shall be licensed as an interpreter by this state.

2. The initial interpreter appointments made to the committee shall be made from interpreters who have voluntarily registered with the Missouri commission for the deaf and hard of hearing. In making the initial appointments to the committee, the governor shall stagger the terms of the appointees so that two members serve initial terms of two years, two members serve initial terms of three years, two members serve initial terms of four years and one member serves an initial term of one year.

3. At the time of appointment the public members shall be United States citizens, Missouri residents for a period of one year, registered voters, persons who are not and never were members of any profession licensed or regulated pursuant to sections 209.285 to 209.339, persons who do not have and never have had a material financial interest in providing interpreting services or persons who do not have and never have had a financial interest in an activity or organization directly related to interpreting.

4. Members shall be appointed to serve four-year terms. No person shall be eligible for reappointment who has served as a member of the committee for eight or more years. The membership of the committee shall reflect the

differences in levels of certification, work experience and education. Not more than two interpreter educators shall be members of the committee at the same time.

5. A vacancy in the office of a member shall be filled by appointment by the governor for the remainder of the unexpired term. The governor may remove a committee member for misconduct, inefficiency, incompetence or neglect of his or her official duties after giving the committee member written notice of the charges against the committee member and an opportunity to be heard.

6. Each member of the committee shall receive as compensation an amount set by the committee not to exceed fifty dollars for each day devoted to the affairs of the committee and shall be reimbursed for necessary and actual expenses incurred in the performance of his or her official duties.

7. The committee shall hold an annual meeting at which it shall elect from its membership a chairperson and a secretary. The committee may hold such additional meetings as may be required in the performance of its duties. A quorum of the committee shall consist of four of its members.

8. The staff for the committee shall be provided by the director of the division of professional registration.

9. The committee may sue and be sued in its official name and shall have a seal which shall be affixed to all certified copies of records and papers on file and to such other instruments as the committee may direct. All courts shall take judicial notice of such seal. Copies of records and proceedings of the committee and of all papers on file with the division on behalf of the committee certified under the seal shall be received as evidence in all courts of record.

(L. 1994 S.B. 568 § 9, A.L. 1999 H.B. 343, A.L. 2002 H.B. 1783)

License required to practice interpreting--certain professions exempt--practice to be limited to training and education--not considered interpreting, when--out-of-state licensees, temporary interpreting permitted--provisional licensure, criteria.

209.321. 1. No person shall represent himself or herself as an interpreter or engage in the practice of interpreting as defined in section 209.285 in the state of Missouri unless such person is licensed as required by the provisions of sections 209.319 to 209.339.

2. A person registered, certified or licensed by this state, another state or any recognized national certification agent, acceptable to the committee that allows that person to practice any other occupation or profession in this state, is not considered to be interpreting if he or she is in performance of the occupation or profession for which he or she is registered, certified or licensed. The professions referred to in this subsection include, but are not limited to, physicians, psychologists, nurses, certified public accountants, architects and attorneys.

3. A licensed interpreter shall limit his or her practice to demonstrated areas of competence as documented by relevant professional education, training, experience and certification. An interpreter not trained in an area shall not practice in that area without obtaining additional relevant professional education, training and experience through an acceptable program as defined by rule by the Missouri commission for the deaf and hard of hearing.

4. A person is not considered to be interpreting pursuant to the provisions of this section if, in a casual setting and as defined by rule, a person is acting as an interpreter gratuitously or is engaged in interpreting incidental to traveling.

5. A person is not considered to be interpreting pursuant to the provisions of this section if a person is engaged as a telecommunications operator providing deaf relay service or operator services for the deaf.

6. A person is not considered to be interpreting under the provisions of this section if the person is currently

enrolled in an interpreter training program which has been accredited by a certifying agency and approved by the committee. The training program shall offer a degree in interpreting from an accredited institution of higher education. Persons exempted under this provision shall engage only in activities and services that constitute part of a supervised course of study and shall clearly designate themselves by a title of the student, practicum student, student interpreter, trainee, or intern.

7. A person holding a current certification of license from another state or recognized national certification system deemed acceptable by the committee is not considered to be interpreting as defined in this chapter when temporarily present in the state for the purpose of providing interpreting services for a convention, conference, meeting, professional group, or educational field trip.

8. (1) The board for certification of interpreters shall grant a provisional certificate in education for any applicant who meets either of the following criteria:

(a) The applicant possesses a current valid certification in the Missouri interpreters certification system at either the novice or apprentice level and holds a valid license to provide interpreting services; or

(b) The applicant has submitted an application for certification in the Missouri interpreters certification system and an application for an interpreting license pursuant to sections 209.319 to 209.339 and has taken the written test and performance test or attests that he or she will complete the certification and licensure applications and take the written test within sixty days following the date of application for a provisional certificate in education and will complete the performance test within sixty days following passage of the written test.

(2) The board shall issue the provisional certificate in education within ten business days following receipt of a complete application.

(3) A provisional certificate issued under paragraph (a) of subdivision (1) of this subsection shall be valid for a term of three years and shall be renewed by the board, upon request by the certificate holder, for one additional term of three years if the certificate holder is reevaluated during the first term of issuance and achieves a higher level of certification in the Missouri interpreter certification system.

(4) A provisional certificate issued under paragraph (b) of subdivision (1) of this subsection shall be valid for one year and shall be renewed, upon request by the certificate holder, pursuant to subdivision (3) of this subsection if the certificate holder is reevaluated during the term of issuance and achieves a certification in the Missouri interpreter certification system. Such renewed certificate shall be subject to the term length and renewal provisions of subdivision (3) of this subsection.

(5) A provisional certificate in education shall be limited to providing interpreters services in preschool, elementary and secondary school settings or as allowed by any other valid Missouri certification or license held by the individual.

(6) A provisional certificate in education may be revoked by the board if the person makes any misrepresentations or fails to fulfill any commitment made pursuant to paragraph (b) of subdivision (1) of this subsection, or violates the provisions of section 209.317 or 209.334 or breaks any of the ethical rules of conduct for interpreters as established by state rule or fails to obtain the necessary continuing education credits required for certification maintenance.

(L. 1994 S.B. 568 § 10, A.L. 2002 H.B. 1783, A.L. 2004 S.B. 968 and S.B. 969)

Certificates recognized by the board.

209.322. The board shall recognize the following certificates:

- (1) National Registry of Interpreters for the Deaf (NRID) certificates, which include Comprehensive Skills Certificate (CSC), Certificate of Interpreting/Certificate of Transliteration (CI/CT) and Certified Deaf Interpreter (CDI);
- (2) National Association of the Deaf (NAD) certificate levels 3, 4 and 5; and
- (3) A provisional public school certificate.

(L. 2002 H.B. 1783, A.L. 2004 S.B. 1122)

License application forms, content, oath, fee not refundable, qualifications, licenses expire, when--reinstatement procedure--replacement of license lost or destroyed.

209.323. 1. Applications for licensure as an interpreter shall be submitted to the division on forms prescribed by the division and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, certification by either the National Registry of Interpreters for the Deaf, National Association of the Deaf or Missouri Interpreter Certification System and such other information as the division may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained in the application is true and correct to the best knowledge and belief of the applicant, subject to the penalties, as provided in sections 209.319 to 209.339, for the making of a false affidavit or declaration. Each application shall be accompanied by the required application fee. The application fee must be submitted in a manner as required by the committee and shall not be refundable. The applicant must be eighteen years of age or older.

2. Each license issued pursuant to the provisions of sections 209.319 to 209.339 shall expire on the renewal date. The division shall mail a renewal notice to the last known address of each licensee prior to the license renewal date. The license will expire and renewal may be denied upon failure of the licensee to provide the division with the information required for renewal including but not limited to satisfactory evidence of current certification or to pay the required renewal fee within sixty days of the license renewal date. The license may be reinstated within two years after the renewal date, if the applicant applies for reinstatement and pays the required license renewal fee plus a delinquency fee as established by the committee and provides evidence of current certification.

3. Except as provided in section 209.321, the committee with assistance from the division shall issue or renew a license to each person who files an application and fee as required by the provisions of sections 209.319 to 209.339 and who furnishes satisfactory evidence to the committee that he has complied with the provisions of subsection 1 or 2 of this section.

4. The committee may issue a new license to replace any license which is lost, destroyed or mutilated upon payment of a fee as provided by the committee.

(L. 1994 S.B. 568 § 11, A.L. 2002 H.B. 1783, A.L. 2004 S.B. 1122)

Temporary license issued to persons licensed in other states, procedure, fee limitation.

209.326. Any person who holds a valid unrevoked and unexpired license or certification as an interpreter issued by a state or organization other than this state and recognized by the committee and concurrently by the Missouri commission for the deaf and hard of hearing and, provided for by rule, may be granted a temporary license by the committee to practice interpreting in this state. The application for a temporary license must be accompanied by the appropriate fee as established by the committee and that fee is nonrefundable. If issued, the temporary license is valid for ninety days. A temporary license may not be issued to the same individual more than once per year. The committee may not issue more than one temporary license to an individual who has established residency in

this state during the individual's residency.

(L. 1994 S.B. 568 § 12, A.L. 2002 H B 1783)

Ethical rules of conduct established by rules, duties of committee--other rules authorized.

209.328. 1. Notwithstanding any other provision of sections 209.319 to 209.339, the committee may adopt rules and regulations, not otherwise inconsistent with sections 209.319 to 209.339, to carry out the provisions of sections 209.319 to 209.339. No rule shall be adopted except in accordance with the procedures set forth in chapter 536. The committee may promulgate, by rule, "Ethical Rules of Conduct" governing the practices of interpreters.

2. The committee may promulgate rules and regulations pertaining to, but not limited to:

(1) The form and content of license applications required by the provisions of sections 209.319 to 209.339 and the procedures for filing an application for an initial license, renewal license or temporary license in this state;

(2) Fees required by the provisions of sections 209.319 to 209.339;

(3) The licenses and certifications recognized as qualifying credentials for an initial license, renewal license or temporary license;

(4) Establishment and promulgation of procedures for investigating and resolving complaints and violations occurring under the provisions of sections 209.319 to 209.339;

(5) Establishment of policy and procedure for reciprocity with other states, including states which do not have interpreter licensing laws or states whose licensing laws are not substantially the same as those of this state.

(L. 1994 S.B. 568 § 13)

Procedure to adopt rules.

209.331. No rule or portion of a rule promulgated under the authority of sections 209.285 to 209.339 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

(L. 1994 S.B. 568 § 14, A.L. 1995 S.B. 3)

State committee of interpreters fund established, purpose--transfer to general revenue, when--profession of interpreter not to be subject to taxation or licensing fees by municipalities.

209.332. 1. There is hereby established in the state treasury a fund to be known as the "State Committee of Interpreters Fund". All fees provided for in sections 209.319 to 209.339 shall be collected by the director of the division of professional registration and shall be transmitted to the department of revenue for deposit in the state treasury for credit to this fund. Such funds, upon appropriation, shall be disbursed only in payment of expenses of maintaining the committee and for the enforcement of the provisions of sections 209.319 to 209.339. Warrants shall be drawn on the state treasury for payment out of the fund.

2. The provisions of section 33.080 to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two

times the amount of the appropriation from the committee's fund for the preceding fiscal year or, if the board requires by rule license renewal less frequently than yearly, then three times the appropriation from the fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the fund for the preceding fiscal year.

3. No person who has been licensed by the committee as an interpreter in this state shall be taxed or made liable to pay any municipal or other corporation tax or license fee of any description whatever for the privilege of following or carrying on such profession.

(L. 1994 S.B. 568 §§ 15, 16)

Refusal to issue or renew license, grounds, complaint procedure--reinstatement procedure.

209.334. 1. The committee may refuse to issue or renew any license required by the provisions of sections 209.319 to 209.339 for one or any combination of causes stated in subsection 2 of this section. The committee shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621.

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any license required by sections 209.319 to 209.339 or any person who has failed to renew or has surrendered his license for any one or any combination of the following causes:

- (1) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage to an extent that such use impairs a person's ability to engage in the occupation of interpreting;
- (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of an interpreter, for any offense an essential element of which is fraud, dishonesty or an act of violence, whether or not sentence is imposed;
- (3) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of sections 209.319 to 209.339 or in obtaining permission to take any examination given or required pursuant to the provisions of sections 209.319 to 209.339;
- (4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;
- (5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of interpreting;
- (6) Violation of, or assisting or enabling any person to violate, any provision of sections 209.319 to 209.339, or of any lawful rule or regulation adopted pursuant to sections 209.319 to 209.339;
- (7) Impersonation of any person holding a license or allowing any person to use his or her license or certification;
- (8) Discipline of a license or other right to practice interpreting granted by another state, territory, federal agency or country upon grounds for which discipline is authorized in this state;
- (9) Discipline of a certification issued by the Missouri commission for the deaf and hard of hearing or any other certifying body upon grounds for which discipline is authorized in this state if the licensee was given notice and an opportunity to be heard before the certification was disciplined;
- (10) A person is finally adjudged incapacitated by a court of competent jurisdiction;

(11) Assisting or enabling any person to practice or offer to practice interpreting who is not licensed and currently eligible to practice under the provisions of sections 209.319 to 209.339;

(12) Issuance of a license based upon a material mistake of fact;

(13) Violation of any professional trust or confidence;

(14) Failure to display or present a valid license if so required by sections 209.319 to 209.339 or any rule promulgated pursuant thereto.

3. Any person, organization, association or corporation who reports or provides information to the committee pursuant to the provisions of sections 209.319 to 209.339 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the committee may singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the committee deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license.

5. In any order of revocation, the committee may provide that the person may not apply for reinstatement of his license for three years after the revocation.

6. Before restoring to good standing a license issued pursuant to sections 209.319 to 209.339 which has been revoked, suspended or inactive for any cause, the committee shall require the applicant to submit to the committee, verification, from the Missouri commission for the deaf that the applicant has a current certification which qualifies that person for licensure.

(L. 1994 S.B. 568 § 17, A.L. 2002 H.B. 1783)

Violations, penalty--injunction granted when--venue.

209.337. 1. A violation of any provision of sections 209.319 to 209.339 is a class A misdemeanor.

2. All fees or other compensation received for services rendered in violation of sections 209.319 to 209.339 shall be refunded.

3. The committee may sue in its own name in any court in this state. The department shall inquire diligently as to any violation of sections 209.319 to 209.339, shall institute actions for penalties herein prescribed, and shall enforce generally the provisions of sections 209.319 to 209.339.

4. Upon application by the committee, the attorney general may on behalf of the committee request that a court of competent jurisdiction grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required upon a showing that such acts or practices were performed, offered to be performed without a certificate of registration or authority, permit or license; or

(2) Engaging in any practice or business authorized by a certificate of registration or authority, permit or license issued pursuant to sections 209.319 to 209.339 upon a showing that the holder presents a substantial probability of serious harm to the health, safety or welfare of any resident of this state or client of the licensee.

5. Any action brought pursuant to the provisions of this section shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

6. Any action brought pursuant to this section may be in addition to or in lieu of any penalty provided by sections 209.319 to 209.339 and may be brought concurrently with other actions to enforce sections 209.319 to 209.339.

(L. 1994 S.B. 568 § 18)

Conversation between a hearing person and a deaf person, interpreter is deemed a conduit, confidentiality, exceptions.

209.339. 1. A person who interprets a conversation between a person who can hear and a deaf person is deemed a conduit for the conversation and may not disclose or be compelled to disclose by subpoena, the contents of the conversation which he facilitated without the prior consent of the person who received his professional services, except as provided in subsections 2 to 4 of this section.

2. A court may order disclosure of the contents of a conversation to provide evidence in proceedings related to criminal charges. However, all communications, which are privileged by law, shall be protected as privileged communications in the same manner when an interpreter is used.

3. The prohibition on disclosure of the contents of a conversation does not apply in any investigation, hearing or other proceeding to determine whether, and to what extent, a licensee should be disciplined. In addition no such licensee may withhold records or testimony bearing upon whether, and to what extent, a licensee should be disciplined, on the ground of not being permitted to disclose the contents of a conversation.

4. A person, whether or not a licensed interpreter, is not prohibited from disclosing, and may not refuse to disclose, the contents of a conversation in any proceeding related to allegations that the person has practiced interpreting without a license.

(L. 1994 S.B. 568 § 19)

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Missouri General Assembly

Appendix L:

Legislation Adjusting Surcharge Rate

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held in Jefferson
City, Missouri on the 23rd day of
November, 2010.

In the Matter of the Review of the Deaf Relay)
Service and Equipment Distribution Fund Surcharge) **File No. TO-2009-0042**

**ORDER ADOPTING RELAY MISSOURI FUND
REVIEW AND REDUCING FUND SURCHARGE**

Issue Date: November 23, 2010

Effective Date: December 3, 2010

On August 11, 2008, the Staff of the Missouri Public Service Commission filed a Motion to Open Case to Review Staff Recommendation. Attached to that Motion was a summary of the Staff's detailed review of the funding of the Deaf Relay Service and Equipment Distribution Fund ("hereafter fund"). Staff's review was conducted pursuant to 209.259 RSMo 2000. That review is attached hereto as Attachment A.

Staff reviewed the level of the surcharges, the fund balance, the retention amount that compensates the local telephone companies that collect and remit the surcharges, and the expenditures for Relay Missouri. Staff noted that the fund balance for May, 2008 was \$3,179,217 and was steadily increasing.

Staff filed a Status Report on June 22, 2009. Staff stated that the fund was growing even faster than Staff had anticipated in August 2008. Staff indicated the May 2009 balance would be \$3,717,703 instead of \$3,582,282, due to steeper declines in relay usage.

Staff recommended the Commission reduce the Relay Missouri surcharge from \$.13 to \$.11 effective 90 days from the date of the Commission order. Further, Staff recom-

mended that the Commission maintain the current retention amount of one percent or \$30, whichever is greater, of the surcharge revenue it collects, as no compelling reason has been presented by the industry to change this amount.

The Commission granted an application to intervene by Southwestern Bell Telephone Company, d/b/a AT&T Missouri. AT&T Missouri did not object to Staff's recommendations.

The Commission received written comments from The Governor's Council on Disability, the Missouri Commission for the Deaf and Hard of Hearing, the Missouri School for the Deaf, the Missouri Relay Advisory Committee, and Paraquad. Further, the Commission received both written oral comments from Marty Exline, the Director of the Missouri Assistive Technology Council. These comments opposed Staff's Recommendation to reduce the surcharge, mainly due to rapidly changing telecommunications technology and the corresponding decrease in landline users paying into the fund.

In addition, the Missouri Relay Advisory Committee stated that the Federal Communications Commission (hereafter "FCC") will soon require all Video Relay Service (hereafter "VRS") and Internet Protocol (hereafter "IP") Service providers to obtain the user's physical location before initiating service. This new requirement could determine the jurisdiction of the calls which, in turn, could result in the fund sharing the cost of these calls. The Missouri Relay Advisory Committee states that the fund's expenditures could increase by 77% monthly.

In view of these comments, the Commission took no immediate action on Staff's Recommendation. However, on November 2, 2010, Staff updated its Recommendation. Staff's updated analysis continues to recommend that the Commission reduce the surcharge. Staff noted that the balance of the fund is \$4,616,171 as of September 30,

2010. That balance is approximately 9% higher than Staff predicted it would be in its January recommendation. Staff further revised its forecasts, stating that it believes line quantities will decline even more quickly than initially believed. Also, Staff thinks that relay usage will decline more quickly than first thought, and that CapTel usage will remain stagnant instead of increasing. Finally, Staff reported that this update and recommendation was discussed at an October 20, 2010 Relay Missouri Advisory Committee meeting. That committee voted 7 to 1, with 3 abstentions, to support Staff's Recommendation.¹

Commission Rule 4 CSR 240-2.080(15) allows ten days for responses to pleadings. The Commission received no responses to Staff's November 2, 2010 update.

Section 209.259 requires the Commission to review the deaf relay service and equipment distribution fund surcharge no less frequently than every two years, and to order changes in the amount of the surcharge as necessary to assure available funds for the programs enumerated in Section 209.253. The Commission finds the Staff's review was properly conducted. The Commission notes that the balance of the fund continues to increase even more quickly than Staff's earlier predictions. Technological changes, such as internet-based relay services, are resulting in traditional relay users migrating away from Relay Missouri. Thus, adopting Staff's recommendation should allow the fund to remain solvent and available for those customers who need it, while reducing the bills of all Missouri landline subscribers.

The Commission further finds that the current retention amount of one percent or \$30, whichever is greater, is sufficient and shall be maintained unchanged.

¹ The abstaining members were two members of Staff and Sprint's member.